LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
JUN 11 1962
JOHN F. DAVIS, CLERK

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1962

No. [redacted] 169

LUTHER ROBINSON MADDOX,
Petitioner,

v.

FIDELITY INVESTMENT & TITLE CO., INC., and JAMES C. CHRISTOPHER, As Secretary Thereof and Individually; F. ARCHIE MEATYARD, JR., Individually and as Attorney for DISTRICT SUPPLY, INC., ET AL.; OWEN E. OSBORNE, RAYMOND O. SHROYER and MARY K. SHROYER, his wife,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AND APPENDIX

LUTHER ROBINSON MADDOX,
In Propria Persona,
Acting Pro Se,
525 Woodward Building,
Washington 5, D. C.
(Phones: DI. 7-2323; CO. 5-4111)

Dated: June 11, 1962

TABLE OF CONTENTS

	Page
Opinions Below	2
Jurisdiction	3
Questions Presented	3
Constitutional Provisions, Statutes, Rules etc	8
Statement of the Case	8
Reasons for Granting Writ	14
Argument	34
Conclusion	41
Appendix A—Opinion U. S. Court of Appeals for the Fourth Circuit	43
Appendix B—Trial Court's Charge to Jury on Counts 1, 2 & 3	51
Appendix C—Trial Court's Instruction to Jury on Counts 4, 5 & 6	66
Appendix D—Rules & Statutes	80

TABLE OF CITATIONS

11 Am. Jur. Sec. 47 & 48	36
Bank of Columbus v. Okeley, 4 Wheat 244	41
Byrne v. Shell Oil Co. (7CA, 1961), 295 F2d 797	20
Calcutt v. Gerig (6CA, 1921), 271 Fed. 220, 27 ALR 543	20
Clemmons v. Board of Education, (6CA, 1956) 228 F2d 853	25
Connally v. Gishwiller, (7CA, 1954), 162 F2d 428	16
Covey v. Somers, 351 U.S. 141, 100 L.Ed. 1021	41

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1961

No.

LUTHER ROBINSON MADDOX,
Petitioner,

v.

FIDELITY INVESTMENT & TITLE CO., INC., and JAMES C. CHRISTOPHER, As Secretary Thereof and Individually; F. ARCHIE MEATYARD, JR., Individually and as Attorney for DISTRICT SUPPLY, INC., ET AL.; OWEN E. OSBORNE, RAYMOND O. SHROYER and MARY K. SHROYER, his wife;
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Petitioner, Luther Robinson Maddox, prays that a writ of certiorari issue from this Court to review a judgment of the United States Court of Appeals for the Fourth Circuit, entered in the above-entitled cause on March 5, 1962, affirming the judgments of the trial court. A motion for a rehearing was duly filed by Petitioner on April 3, 1962, and it was denied on April 12, 1962. (R. 136-141, 142-145).

OPINIONS BELOW

The Opinion of the Court Below is officially reported in 300 F. 2d, 1 a copy of the opinion served upon Petitioner is annexed hereto as Appendix "A"; the opinions of the trial court are shown as Appendix "B" and "C" (R. 43-53, 57-69). The opinion of the Court of Appeals of Maryland, September Term, 1959, No. 151, is reported in *Maddox v. District Supply, Inc., et al.*, 222 Md. 31, 158 A. 2d 650, and it is also shown in Appendix to the Petition for a writ of certiorari, to that court as Exhibit "B", p. 45, filed by Petitioner in this Court on August 17, 1960, October Term (No. 330). In that same Appendix is shown, also, the opinion of the Montgomery County Circuit Judge (Eq. No. 17,356), pursuant to which the consent judgment was affirmed by that Maryland Court of Appeals, the court of last resort in that State. This Court refused to review that Maryland Court's decision; and, when application was made for a reconsideration and review, duly filed on November 18, 1960, that was denied also (December 5, 1960). The Maryland Court of Appeals was also asked to reconsider and rehear that case, affirming the consent judgment below as rendered against the Shroyers, but that was denied (4/19/60). That motion however, was duly filed on April 14, 1960, and its decision and opinion was published in the Atlantic Reporter five days before the motion for reconsideration and rehearing was filed (See p. 52, Appendix, Exhibit "C"—October Term, 1960, No. 330).

JURISDICTION

The jurisdiction of this Court is invoked under the provisions of 28 U.S.C., Section 1254(1) and pursuant to Rule 19 of this Court where (1) the court below has decided a case in conflict with decisions and principles of law laid down by this Court and other Circuit Courts of Appeals—even contrary to the principles established in its own Circuit; (2) and where it has decided important questions of law involving the Federal Rules of Civil Procedure that should be settled by this Court; (3) and where it has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by the trial court, as to call for the exercise of this Court's power of supervision; (4) and, further, where it has decided federal questions in conflict with applicable decisions of this Court and well-established law.

The trial court took jurisdiction under 28 U.S.C., Section 1391(a) (diversity of citizenship).

QUESTIONS PRESENTED

1.—Whether the Court of Appeals erred:

(a) When it held there was not a "shred of evidence to support plaintiff's charges" of a malicious conspiracy to breach contracts of employment existing between Plaintiff and the Shroyers, thereby defeating, depriving and defrauding Plaintiff in the trial court out of fees earned and to be earned (R. 137, 138; O/R. 48, 49), as charged in COUNT FOUR: and, further, of breaching an implied warranty under Assignments of an escrow fund being held by the Title Company, and nullifying a Power of Attorney, where both the Power of Attorney and the As-

signment were *one contract* between the Petitioner and the Shroyers, having been executed in 1955 by the Shroyers to secure Plaintiff's fees under said contracts of employment; and, further, to commit a malicious and unlawful abuse of legal process upon the plaintiff below, Petitioner herein; and moreover, to maliciously and illegally convert funds in escrow;

(b) when it lumped COUNTS, FOUR, FIVE and SIX, together, in its opinion, when COUNT FIVE (O/R. 468-481) as amended on April 14, 1961, (Fiat on margin thereof), charging Title Company and its Secretary, James C. Christopher, Raymond O. Shroyer and his wife Mary, in a tort action, for conspiracy to maliciously and illegally convert—and did convert—the escrow fund of $17,000.00 to their own advantage and profit, and to pay it out accordingly, working in concert and collusion with others, and then to hold and say there was no legal evidence to support such a charge (R. 89-125);

(c) when it held in effect that the trial court was right when it refused to grant Plaintiff a Summary Judgment on COUNT SIX against Meatyard when he (Meatyard) had not answered the COUNT and there was *no issue* before the trial court on that count (R. 69, 70), and the trial court had directed a verdict for all the defendants on COUNTS FOUR, FIVE and SIX, and when the case had been finished under pressure and was ready to go to the jury under *a directed verdict*, and then after verdict recorded by the Clerk, without any issue joined on that Count Six by Meatyard, permitted him to file an amended answer to that Count, (see Apx. to Br. pp. 93-96, R. 69-72);

(d) when it said, and held, "We are not faced with

the question of whether there was conflicting evidence. Here there was no evidence to justify the accusation of unlawful action. Neither was there any probative evidence of an illegal conversion" (R. 138);

(e) when it refused to discuss and consider, and pass on, the "thirteen questions" covering errors set out in Petitioner's Brief filed in the Appellate Court, and which errors were contended committed by the trial court, and further said it "would not be fruitful" to do so (R. 138);

(f) when it held, and stated, Plaintiff "has had the benefit of a careful and considerate trial judge who conducted the trial according to the highest tradition of the judiciary. The obligations that American justice owes to every litigant have been fully satisfied. The Shroyers attempted to discharge the plaintiff some five and a half years ago; they are now entitled to their peace. *The judgments of the lower courts are affirmed.*";

(g) when it held in effect that the trial court, in directing a verdict on COUNTS FOUR, FIVE and SIX, it was proper for that court to pass on not only the credibility of witnesses but also on inferences of fact to be drawn from facts well established in the testimony and documentary evidence, all of which was basically the jury's function;

(h) when it held in effect, positively, that Plaintiff had been afforded a fair and impartial trial in that trial court, and had had "his day in court", when five days were allowed Plaintiff on COUNTS ONE, TWO and THREE, for breach of contracts against the Shroyers alone, and then allowed Plaintiff only two days for his conspiracy counts